

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
6 Facsimile: (415) 703-5480
E-mail: Judith.Loach@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2013-208*

12 **MARCIA LANGBEN**
13 **AKA MARCIA MARIE LANGBEN**
AKA MARCIA MCGUINNESS
14 **203 East Belle Vue**
San Mateo, CA 94401

ACCUSATION

15 **Registered Nurse License No. 444406**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 31, 1989, the Board of Registered Nursing issued Registered
24 Nurse License Number 444406 to Marcia Langben, aka Marcia Marie Langben, aka Marcia
25 McGuinness ("Respondent"). The Registered Nurse License was in full force and effect at all
26 times relevant to the charges brought herein and will expire on May 31, 2013, unless renewed.

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2

2
3
4

5
6
7
8

9.01

2
3
4
5

14

17

18
19

20

2.1

22
23
24

24

2.

22

chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Criminal Conviction)

11. Respondent is subject to disciplinary action under Code sections 2761(f), 2762(c), and/or 490 in that on October 31, 2003, in a criminal proceeding entitled *The People of the State of California v. Marcia Marie Langben*, Marin County Superior Court Case No. SC130620A, Respondent was convicted by her plea of guilty to a felony violation of Vehicle Code section 23152(b) [driving with a blood alcohol level above 0.08%], admitting that within seven (7) years

1 of her conviction, she had three (3) prior convictions for driving while under the influence of
2 alcohol and/or driving with a blood alcohol level of 0.08% or more. Respondent was sentenced
3 to one (1) year in custody of the Marin County Sheriff's Department, placed on five (5) years
4 supervised probation, declared to be a habitual traffic offender, had her driver's license suspended
5 for four (4) years, ordered to enter and complete a residential treatment program, attend 12-step
6 meetings and to participate in any treatment/therapy and/or counseling as directed by her
7 probation officer. Respondent was also ordered to pay fines in the amount of \$ 2,605.00.

8 The facts in support of the convictions were that on July 13, 2003, at 11:10 p.m.,
9 Respondent was seen weaving while driving along Tiburon Boulevard, Tiburon, California.
10 Upon contact, Respondent displayed indicia of alcohol intoxication and failed roadside field
11 sobriety tests. Her blood alcohol level was 0.13%, 0.10% and 0.12%.

12 SECOND CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct – Criminal Conviction)

14 12. Respondent is subject to disciplinary action under Code sections 2761(f), 2762(c),
15 and/or 490 in that on June 21, 2001, in a criminal proceeding entitled *The People of the State of*
16 *California v. Marcia Marie Langben*, Marin County Superior Court Case No. SR01003311,
17 Respondent was convicted by her plea of guilty to a felony violation of Vehicle Code section
18 23152(a) [driving while under the influence of alcohol], and a misdemeanor violation of Vehicle
19 Code section 14601.5(a) [driving on a suspended/revoked driver's license]. Respondent was
20 sentenced to seven (7) months in the custody of the Marin County Sheriff's Department, five (5)
21 years of supervised probation, ordered to complete alcohol treatment programs and therapy, had
22 her driver's license suspended for four (4) years and ordered to pay fines in the amount of
23 \$ 2,2205.00.

24 The facts in support of the convictions were that on April 5, 2001, at 4:02 p.m., San Rafael
25 Police were dispatched to a business at 145 Jordon Avenue, San Rafael, California, on report of a
26 intoxicated person who was attempting to start her vehicle. Respondent displayed indicia of
27 alcohol intoxication, failed field sobriety testing and admitted to the officers that her first drink
28 had been at 10:00 a.m. Her blood alcohol level was 0.20% and 0.19%.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0

2

3
4
5
6
7
8
9
0

1

2

3
4
5
6

27
28
29
20
21
22

23

24
25
26
27
28

1 pay fines in the amount of \$ 1,1311.00.

2 PRAYER

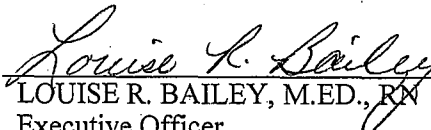
3 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
4 and that following the hearing, the Board of Registered Nursing issue a decision:

5 1. Revoking or suspending Registered Nurse License Number 444406, issued to Marcia
6 Langben, aka Marcia Marie Langben, aka Marcia McGuinness;

7 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
8 the investigation and enforcement of this case, pursuant to Business and Professions Code section
9 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: SEPTEMBER 26, 2012

12 
13 LOUISE R. BAILEY, M.ED., RN
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant

16 SF2012402534
17 40589183.doc